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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 47th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 1 March 1991, at 12 noon

Chairman: Mr. BERNALES BALLESTEROS (Peru)

CONTENTS

The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régime in southern Africa (continued)

Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

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* The summary record of the first part (closed) of the meeting appears as document E/CN.4/1991/SR.47.

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CONTENTS (continued)

(a) Problems related to the right to enjoy an adequate standard of living; foreign debt, economic adjustment policies and their effects on the full enjoyment of human rights and, in particular, on the implementation of the Declaration on the Right to Development;

(b) Popular participation in its various forms as an important factor in development and in the full realization of all human rights (continued)

Effective functioning of bodies established pursuant to United Nations human rights instruments (continued)

Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts (continued)

The public meeting was called to order at 12 noon

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/1991/L.23/Rev.1)

1. Mrs. GABR (Observer for Egypt), introduced draft resolution E/CN.4/1991/L.23/Rev.1, and drew attention to the main changes with respect to the texts of previous years. First, in the title, the words "southern Africa" had been replaced by "South Africa", since Namibia was now independent and a Member of the United Nations. Next, the sponsors had brought the draft into line with recently-adopted international instruments, in particular the Declaration on racial discrimination made by the General Assembly at its 1989 special session and the relevant resolutions it had adopted at its forty-fifth session. The draft was also based on the resolutions of the African Summit held in July 1990 and of the meeting of heads of State held in February 1991. Finally, when drafting the ninth preambular paragraph, the sponsors had taken into account the fact that it was too soon to relinquish sanctions; that concern was repeated in paragraph 10 of the draft, which no longer mentioned Chapter VII of the Charter and the need for mandatory sanctions, but called on Governments to maintain sanctions and pressure until South Africa embarked on an irreversible transition to a democratic and non-racial régime.

2. All the reports submitted to the current session of the Commission, especially the report of the Group of Three and the report on mercenaries, unanimously denounced the continuing human rights violations in South Africa. The draft resolution thus signified a commitment to enforce the basic principles adopted by the international community regarding apartheid, especially the need for the black majority to exercise its right to self-determination and to benefit from the country's natural resources. Such a commitment implied the maintenance of sanctions against South Africa. The draft resolution also called for efforts to be directed towards putting an end to the cooperation between South Africa and the transnational corporations.

3. Her delegation hoped that the encouraging signs observed in the country heralded a new era of democracy and equality, but it urged the international community to continue its political boycott, which was a highly effective instrument.

4. At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution.

5. The Czech and Slovak Federal Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Brazil, Burundi, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, India, Indonesia, Iraq, Mauritania, Mexico, Morocco, Pakistan, Peru, Philippines, Senegal, Somalia, Venezuela, Yugoslavia, Zambia.

Against: Australia, Austria, Belgium, Canada, Czech and Slovak Federal Republic, Ethiopia, France, Hungary, Italy, Japan, Portugal, Sweden, United States of America.

Abstaining: Panama, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

6. Draft resolution E/CN.4/1991/L.23/Rev.1 was adopted by 25 votes to 13, with 3 abstensions.

7. Mr. BLACKWELL (United States of America) explained that his delegation had voted against the draft resolution because, while it was still convinced that discrimination must be eliminated in South Africa, it found the draft to contain some unacceptable wording.

8. Mr. SEZAKI (Japan) explained that his delegation, which had abstained the previous year, had voted against the current draft in view of the positive changes it had observed in South Africa, which were not sufficiently taken into account in the draft resolution. The Commission's message to South Africa should be one of encouragement and not a harsh condemnation.

9. Mr. PAGAC (Czech and Slovak Federal Republic) said that he had voted against the draft resolution because the text did not reflect, either in its form or content, the encouraging changes taking place in South Africa. However, his country remained determined to combat the inhuman apartheid régime.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT;

(b) POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS (agenda item 7) (continued) (E/CN.4/1991/L.18/Rev.1; E/CN.4/1991/L.19)

Draft resolution E/CN.4/1991/L.18/Rev.1

10. The CHAIRMAN said he believed that the Commission was ready to adopt draft resolution E/CN.4/1991/L.18/Rev.1 without a vote. If there was no objection, he would take it that the draft was adopted.

11. Draft resolution E/CN.4/1991/L.18/Rev.1 was adopted.

Draft resolution E/CN.4/1991/L.19

12. Mr. WALDROP (United States of America) introduced the amendments made to draft resolution E/CN.4/1991/L.19 following consultations with the representatives of several countries, in particular Bangladesh and India. First, the following paragraph, taken from General Assembly resolution 45/98, should be added to the preamble: "Reaffirming, in accordance with article 29 of the Universal Declaration of Human Rights, that, in the exercise of his or

her rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society,".

13. Next, a new paragraph (para. 2) should be added to the body of the resolution, and should read: "Believes also that such a study should suggest ways and means to implement the right of everyone to own property alone as well as in association with others, bearing in mind the goals of attaining social justice and fostering the enjoyment of all human rights and fundamental freedoms,".

14. Finally, in paragraph 3 of the current version, which would become paragraph 4, the colon following the word "property" should be replaced by a comma and the following phrase added: "taking into consideration the question of social justice and the ways to achieve it:".

15. In addition to Hungary and Switzerland, Peru should be added to the sponsors of the draft resolution.

16. Mr. PACE (Secretary of the Commission on Human Rights), referring to the financial implications of draft resolution E/CN.4/1991/L.19, said the activities contained in paragraph 2 (new para. 3) entailed the preparation of a report by an independent expert. That would require, in particular, research, the services of a P-3 consultant for six months, and two trips by the expert to Geneva for consultations, one in 1991 and one in 1992. In addition, four work months of assistance at the GS level would be required for the two one-week trips by the expert to Geneva. The relevant costs were estimated at $32,800 for 1991 and $32,800 for 1992.

17. Subject to approval by Headquarters, those costs would be financed under Section 23 (Human Rights) of the budget.

18. Mr. ROA KOURI (Cuba) requested a separate vote on new paragraphs 3 and 4 of the draft resolution. His delegation did not believe it was necessary to recruit an independent expert for a study that could be prepared by a United Nations technical body such as the Sub-Commission. His delegation would vote against paragraphs 3 and 4 but was not opposed to the rest of the resolution, and it thanked the United States delegation for the improvements it had made in the draft.

19. A vote was taken by show of hands on paragraphs 3 and 4 of resolution E/CN.4/1991/L.19, as amended.

20. Paragraphs 3 and 4 were adopted by 34 votes to 2, with 5 abstentions.

21. The CHAIRMAN said that since there had been no request for a vote, he would take it that the draft resolution as a whole was adopted.

22. Draft resolution E/CN.4/1991/L.19, as amended, was adopted.

23. Mrs. ARGUILLAS (Philippines) explained that she had abstained in the vote on paragraphs 3 and 4 of the draft resolution because she believed that the proposed study should be prepared by the Sub-Commission, for financial reasons. However, if a vote had been taken on the text as a whole, she would have voted in favour.

24. Mr. XUEXIAN WANG (China) said that he had abstained in the vote on paragraphs 3 and 4 of the draft resolution because he was not convinced that it was necessary to appoint an independent expert, first because of the financial consequences that would involve and second because the Sub-Commission could undertake that study and because its opinion might perhaps have been more complete than that of an expert, however qualified.

25. Mr. DAYAL (India) explained that his delegation had voted in favour of paragraphs 3 and 4 of draft resolution E/CN.4/1991/L.19 despite the fact that it still believed that the Sub-Commission, which possessed the required competence in that field, would have been in a better position to prepare the requested study. It hoped that all future studies would be entrusted to the Sub-Commission.

26. Mrs. GALVIS (Colombia) said that her delegation had abstained in the vote on paragraphs 3 and 4 of draft resolution E/CN.4/1991/L.19 because it believed that the Sub-Commission should be the body to conduct studies on complex issues such as the one referred to in the text adopted.

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (agenda item 18) (continued) (E/CN.4/1991/L.13)

27. Mr. KESSEL (Canada), introducing the revised text of draft resolution E/CN.4/1991/L.13, of which the United Kingdom and Germany had become sponsors, said that in recent years serious efforts had been made to resolve the problems which the United Nations treaty monitoring bodies were experiencing. In that regard the utility of the meetings of the chairpersons of those bodies was without doubt; in 1988 and 1990 the chairpersons had recommended a number of practical measures to improve the working methods of the bodies themselves and to ease the reporting burden on States.

28. Thus, it was suggested, in the draft resolution under consideration, that the Commission should endorse the recommendation in the 1990 report of the meeting of chairpersons of human rights treaty bodies to institutionalize the meeting of chairpersons and should request the General Assembly to take appropriate action to enable those meetings to be held on a biennial basis.

29. It went without saying that the adequate funding of the bodies in question was essential to their effective functioning. The draft resolution therefore took note, in paragraph 10, of the fact that the General Assembly could consider alleviating those difficulties, inter alia, by the temporary allocation of necessary funds by way of advances out of the United Nations regular budget. For the longer term, however, as indicated in paragraph 13, the Secretary-General should take the appropriate steps to finance the meetings of the treaty bodies from the available resources of the regular budget of the United Nations, with the proviso that reimbursement would eventually be made in every instance from the contributions of States parties to those Conventions or from other appropriate sources. Finally, the

Secretary-General was requested to present a report to the next session of the General Assembly on financial, legal and other implications of providing full funding for the operation of all human rights treaty bodies.

30. He then read out the amendments to the text, which concerned paragraphs 11, 12, 13, 14 and 4.

31. Paragraph 11 was replaced by the following paragraph: "Recalls the duties of all States Parties under United Nations human rights instruments to meet their financial obligations pursuant to such instruments;".

32. At the beginning of paragraph 12 the word "Endorses" was replaced by "Notes with interest".

33. Paragraph 13 was replaced by the following paragraph: "Requests the General Assembly to mandate the Secretary-General to take the appropriate steps in order to finance the meetings of the treaty bodies established under the said instruments from the available resources of the regular budget of the United Nations, when necessary, with the proviso that reimbursement shall eventually be made in every instance from the contributions of States parties to those Conventions or from other appropriate sources;".

34. Paragraph 14 would read: "Requests the Secretary-General to present a report to the next session of the General Assembly examining the financial, legal and other implications of providing full funding for the operation of all human rights treaty bodies;".

35. Finally, (technical correction), at the end of paragraph 4, the words "an annual" should read "biennial".

36. His delegation hoped that draft resolution E/CN.4/1991/L.13 would be adopted without a vote.

37. Mr. CROOK (United States of America), replying to a question by the Chairman, said that his delegation would withdraw its request for a roll-call vote on draft resolution E/CN.4/1991/L.13 and would join in the consensus on the text, as amended by the sponsors.

38. The CHAIRMAN invited the Commission to take a decision on draft resolution E/CN.4/1991/L.13, as revised.

39. Draft resolution E/CN.4/1991/L.13, as amended, was adopted without a vote.

40. Mr. CROOK (United States of America) explained that his delegation continued to believe that certain of the human rights treaty bodies should be financed, in whole or in part, by the countries participating in them, as provided by the instruments themselves. States that had obligated themselves to support those bodies financially should not be allowed to avoid those obligations. Accordingly, his delegation welcomed the text's reaffirmation of the need for all States that were parties to United Nations human rights instruments to honour their financial obligations, and it also commended the idea for a study that would, inter alia, address the legal implications of the financing of treaty bodies.

41. Mr. SEZAKI (Japan) stated for the record that his delegation had serious reservations on paragraph 12 of the text adopted, despite the fact that it had joined the consensus on the text.

42. Mr. XUEXIAN WANG (China), speaking on a point of order, said that while his delegation thanked the Canadian delegation for its efforts to prepare a draft resolution that might be adopted by consensus, it hoped that in future any substantive amendment to a draft resolution would be submitted earlier to the members of the Commission, to enable them to study it and to grasp its implications.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1991/L.22)

43. Mr. BLAVO (Ghana), introducing draft resolution E/CN.4/1991/L.22, said that in spite of the positive changes announced by President De Klerk on 2 February 1990, the human rights and fundamental freedoms of the black population of South Africa continued to be violated, as indicated in the report of the Ad Hoc Working Group of Experts.

44. It was clear that President De Klerk's officials and other collaborators were in no hurry to implement the new measures. Accordingly, in paragraph 6 of the resolution the South African Government was urged to implement the declared intentions fully and speedily. In paragraphs 2 and 5, the Commission would condemn the human rights violations which were still going on under the system of apartheid while commending the release of political prisoners, the unbanning of political organizations, the lifting of the state of emergency and the repeal of the Separate Amenities Act. The South African Government would be urged to repeal all discriminatory and repressive legislation in particular the provisions of the Internal Security Act (paras. 7 and 9) and begin negotiations with all parties to establish the procedures for drawing up and adopting a new constitution for the transition to a democratic order (para. 11). The draft (paras. 13 and 14) commended the "front-line" States and other neighbouring States destabilized by South Africa through direct aggression for their steadfast moral, political and material support to the liberation struggle of the South African people, and the international community was called upon to render all possible assistance to those States to rebuild their infrastructures.

45. Finally, in paragraph 17, all Governments and intergovernmental organizations were called upon to maintain measures, including sanctions, against the South African Government and to adhere strictly to the Programme of Action contained in the Declaration on Apartheid and its Destructive Consequences in Southern Africa.

46. In preparing their draft, the sponsors had taken into account not only the report of the Ad Hoc Working Group of Experts on southern Africa but also the recent Harare Communiqué of the Ad Hoc Committee of the OAU on South Africa, the concluding statement of the Commonwealth Committee of Foreign Ministers on southern Africa and the recent United Nations General Assembly resolutions on South Africa. His delegation hoped that the Commission would adopt the draft resolution without a vote. That would be the clearest signal yet from the Commission to the Government of South Africa as

to what must be done to secure a fundamental and irreversible change to end apartheid and the violations of human rights and fundamental freedoms of the majority of the population of South Africa.

47. The CHAIRMAN noted that the Syrian Arab Republic had joined the sponsors of draft resolution E/CN.4/1991/L.22.

48. Mr. PACE (Secretary of the Commission on Human Rights), introducing the financial implications of draft resolution E/CN.4/1991/L.22, said that under its mandate renewed in accordance with paragraph 20 of the draft, the Ad Hoc Working Group of Experts on southern Africa would carry out a two-week mission to South Africa in July 1991 to collect testimony and information on matters falling within its mandate or, as an alternative, meet in London in July 1991 for one week. It would then have to meet for one week in Geneva to finalize its preliminary report, which it would submit to the General Assembly at its forty-sixth session in October-November 1991. In December 1991, the Ad Hoc Working Group would meet in Geneva for two weeks to consider and adopt its interim report for submission to the Commission at its forty-eighth session.

49. In July 1992, the Ad Hoc Working Group of Experts would carry out another mission of two and a half weeks to South Africa, or, as an alternative, a three-week mission to Dar-es-Salaam, Lusaka, Harare and London for the same purposes as in 1991. It would then meet in Geneva to finalize its preliminary report, which it would submit to the General Assembly at its forty-seventh session in October-November 1992, and then in Geneva for two weeks to consider and adopt its final report for submission to the Commission at its forty-ninth session in February 1993.

50. The total cost of activities to be financed under Section 23 (Human Rights) of the budget was estimated at $262,300 for 1991, $309,000 for 1992 and $43,700 for 1993. The travel and subsistence costs of a press officer for those missions were estimated at $6,300 for 1991 and $6,500 for 1992, to be financed under Section 31 (Department of Public Information) of the programme budget. The cost of the required conference services would be calculated under the global appropriation for conference services provided in Section 29 B of the programme budget, which related to the Conference Services Division at Geneva. It would be unnecessary to request any additional appropriation or have recourse to the contingency fund.

51. Mr. MUYOVU (Burundi) requested that his country should be added to the list of sponsors of draft resolution E/CN.4/1991/L.22.

52. THE CHAIRMAN invited the members of the Commission to take a decision on draft resolution E/CN.4/1991/L.22.

53. Draft resolution E/CN.4/1991/L.22 was adopted without a vote.

54. Mr. GROLIG (Germany) welcomed the fact that the Commission had adopted E/CN.4/1991/L.22 without a vote, thus showing that there was an international consensus on the need for an end to the human rights violations in South Africa and the total abolition of apartheid. The text also reflected the current situation in South Africa as faithfully as possible. The human rights violations had not stopped, but important changes had occurred in that country and, as the Security Council had stated on 15 December 1990, those

changes should enable the international community to reconsider the measures adopted against South Africa. The resolution adopted would also encourage the South African Government to move forward towards a full and speedy abolition of apartheid and the building of a united, non-racial and democratic South Africa.

55. Mr. TROTTIER (Canada) expressed his appreciation of the wisdom, patience and cooperation shown by delegations from various regions, which had led to an unprecedented consensus on a resolution on South Africa.

56. With reference to paragraphs 17 and 18, his delegation would like to point out that the Commonwealth Foreign Ministers had met on 16 February under the chairmanship of Canada to welcome unanimously the progress achieved in South Africa. They had agreed that the sanctions against that country should be maintained until obstacles to negotiation were overcome and the three legislative pillars of apartheid identified by President De Klerk were repealed. They had also decided that economic pressure should continue until constitutional reform had been agreed on in multi-party negotiations, which corresponded to the measures advocated in paragraph 17 for the promotion of profound and irreversible changes. Finally, the Commonwealth Foreign Ministers had agreed that certain measures ordered by the Security Council against South Africa - such as the arms embargo - should not be lifted until a new constitution was in place.

57. In conclusion, his delegation expressed profound satisfaction with the consensus reached on draft resolution E/CN.4/1991/L.22.

58. Mr. BLACKWELL (United States of America) said that no country had worked as hard as the United States for the elimination of apartheid and of a system of government that was contrary to the principles set forth in the Charter of the United Nations and the Universal Declaration of Human Rights. The progress made by the international community in its efforts to foster a peaceful development of the situation in South Africa could only encourage the United States to continue its work towards that goal.

59. While it acknowledged the efforts made by several countries, in particular some African countries, to finalize a resolution that might be adopted by consensus, his delegation regretted that it could not unreservedly approve the text, whose formulation, in its opinion, was not in line with the resolutions on South Africa adopted by the General Assembly in December 1990. In particular, it strongly disapproved of the use of the word "sanctions", which gave the impression that the Commission did not recognize the significant progress that continued to be made in the dialogue taking place between the parties in question. The international community should avoid using contradictory language on the process taking place in South Africa.

The meeting rose at 1.20 p.m.